

**REGULAR STATE BANKING BOARD MEETING
OFFICE OF THE COMMISSIONER
DEPARTMENT OF FINANCIAL INSTITUTIONS
2000 SCHAFER STREET, SUITE G
BISMARCK, NORTH DAKOTA**

November 1, 2012

The regular meeting of the State Banking Board was held in the Office of the Commissioner, Department of Financial Institutions, 2000 Schafer Street, Suite G, Bismarck, North Dakota. Chairman Entringer called the meeting to order at 8:57 a.m., Thursday, November 1, 2012, by conference call.

MEMBERS PRESENT: Robert J. Entringer, Chairman (*Office*)
Nancy Baerwald, Member (*Cando*)(*Joined at 9:20 a.m.*)
Linda Beall, Member (*Velva*)
Bill Daniel, Member (*Bismarck*)
Kim Larson, Member (*Casselton*)
Anita Quale, Member (*Watford City*)
Tom Stennes, Member (*Harwood*)

MEMBER ABSENT: None

ALSO PRESENT: Aaron K. Webb, Secretary (*Office*)
Suzette Richardson, Administrative Staff Officer (*Office*)
Janilyn Murtha, Assistant Attorney General (*Office*)
Lise Kruse, Chief Examiner – Banks (*Fargo*)
Eric Hardmeyer, Bank of North Dakota (*Bismarck*)
Tim Porter, Bank of North Dakota (*Bismarck*)

BANK OF NORTH DAKOTA ASSESSMENT

Chairman Entringer indicated he would like to begin with a discussion relating to the Bank of North Dakota (BND) assessment since he informed Eric Hardmeyer, BND President, and Tim Porter, BND Chief Financial Officer, this would be the first discussion item.

Chairman Entringer indicated that the Department became a special fund agency in 1989, and at that time the assessment for BND was set at \$25,000, net of examination costs. Chairman Entringer explained if the examination bill did not exceed \$25,000, BND did not pay any additional costs. Chairman Entringer indicated in 2000 the Board increased BND's assessment fee to \$50,000, net of examination costs. Further, he provided that the increased assessment fee became effective June 30, 2001.

Chairman Entringer reminded the Board that each May the Board sets the assessment fees for banks, and in May 2010 the Board questioned why BND was only paying \$50,000. Chairman Entringer indicated this was the beginning of discussion on increasing BND's assessment fee, with the consensus being that the fee should be similar to assessments the banks pay, i.e., a percentage of total assets.

Chairman Entringer recalled that in May 2012 he proposed changing the state-chartered bank assessment; however, the Board tabled that until a resolution was made regarding BND's assessment.

Chairman Entringer informed the Board that he met with President Hardmeyer and CFO Porter to discuss the assessment and actions the Board had suggested with regard to raising BND's fee.

President Hardmeyer indicated Chairman Entringer had been bringing BND's assessment fee to their attention for some time, so they have been aware this is an issue of the Board. President Hardmeyer indicated they understand the Board's concerns, and agreed it is proper to look at BND's assessment fee and put together a formula so this is not an ongoing issue.

President Hardmeyer indicated BND is agreeable to looking at a new fee assessment; adding that BND has unique features that need to be taken into consideration. President Hardmeyer indicated the most significant feature is that BND is not regulated by the Department like state-chartered banks, but only examined; adding that the Department cannot take any action regarding examination findings.

President Hardmeyer stated BND is very different than the state-chartered banks in regard to its loan portfolio; explaining that 51% of BND's loan portfolio is guaranteed by the federal government or the state, which results in the Department reviewing only half of BND's loan portfolio.

President Hardmeyer pointed out it is the Department's responsibility to protect depositors; however, BND's deposits consist primarily of North Dakota state funds. President Hardmeyer indicated BND has derived more value from the Department's examinations in the past several years and views the examination process as very important and helpful. President Hardmeyer added BND is not examined by the Federal Deposit Insurance Corporation or Comptroller of the Currency, therefore the Department's examination is the only review conducted other than the bank's external audit.

President Hardmeyer reiterated that BND is open to working with the Board to develop a fair assessment.

Chairman Entringer asked CFO Porter whether he had any thoughts or suggestions on the proposed assessment for BND as presented by the Department. CFO Porter indicated during discussions with the Department it was pointed out that BND cannot legally manage the bank's growth because the state deposits have to be kept here. CFO Porter indicated with the increases in oil revenues in western North Dakota, as well as other taxes, BND has grown substantially over the last five years, to the degree that the bank has doubled in size. CFO Porter indicated since 2010 BND has grown \$2 billion and explained that some of these assets are deployed in the bank's loan portfolio. CFO Porter added that since the beginning of 2012 the bank has placed \$1.4 billion of investments in the investment portfolio. CFO Porter explained this growth can potentially impact the assessment fee, and questioned whether this is an area that has a high impact on the Department's examination. CFO Porter indicated the bank's investments are currently over \$2 billion, which constitutes approximately one-third of the bank's assets; adding he feels this is an area that needs to be looked at when determining an assessment fee structure for BND.

Chairman Entringer indicated the future growth prospects of BND were discussed, and asked CFO Porter to address this with the Board. CFO Porter indicated during the last legislative session the legislature implemented two special funds: the legacy fund puts 30% of the oil tax revenue in a special fund that is managed by the State Investment Board. CFO Porter indicated the other fund, the Strategic Investment and Improvement Fund, is a "catch all" fund that receives the remaining income and sales taxes from oil revenue, and is managed by the State Land Department. CFO Porter indicated that BND and the State Land Department have agreed when those funds are received, the State Land Department will invest the funds in treasuries and safekeep the funds in the state, which keeps these funds

off the bank's balance sheet. CFO Porter indicated if it is decided during the upcoming legislative session to eliminate the State Land Department's involvement, then all of the funds would be held at BND, which would result in approximately another \$600-\$700 million of growth over the remainder of this biennium.

Chairman Entringer indicated the Office of Management and Budget has a publication that shows state revenues and forecasts. Chairman Entringer explained that to date sales tax revenue also totaled \$1.3 billion, which is \$617 million over the last biennium; adding that this is a significant part of BND's incoming funds.

CFO Porter indicated that in 2011 BND grew \$1.3 billion; however, he expects BND will grow approximately \$700 million, which shows the impact of those special funds on the bank's growth.

President Hardmeyer indicated that unlike state-chartered banks, BND has to present its budget to the Legislature each biennium, based on the best assumptions of growth for the bank. President Hardmeyer indicated BND's budget was submitted in September 2012, and pointed out there is close scrutiny in terms of budgetary costs. President Hardmeyer indicated he is not suggesting BND's assessment fee cannot be increased because it was not budgeted for, but wanted to explain the bank has different abilities as far as paying costs similar to the state-chartered banks.

Member Larson indicated when the Board started discussing BND's assessment in 2010, the fact that BND would have to budget for a possible increase was a major concern, which is why the Department tried to meet with BND prior having to submit its budget.

CFO Porter indicated that it was discussed to "phase in" adjustments to BND's assessment fee, as that would be helpful through this biennium.

Chairman Entringer asked the Board how he should proceed with the assessment formula. President Hardmeyer suggested CFO Porter, Chairman Entringer, himself, and possibly a Board member meet to develop a formula.

Member Larson indicated he feels it is only fair that the assessment fee be phased in for BND since their budget has already been submitted.

Member Larson moved that the Department work with President Hardmeyer and CFO Porter to develop an assessment formula to be phased in for the Bank of North Dakota for 2013-2015, with the goal being that Bank of North Dakota be under a full assessment beginning June 30, 2015. The motion was seconded by Member Beall, and unanimously carried.

Chairman Entringer indicated BND's assessment will be a continuing agenda item so that the Board is continually updated.

President Hardmeyer and CFO Porter left the conference call at 9:24 a.m.

APPROVAL OF MINUTES

Chairman Entringer indicated the Board received copies of the minutes of the regular meeting held on September 12, 2012.

It was moved by Member Beall, seconded by Member Baerwald, and unanimously carried to approve the September 12, 2012, minutes as presented.

ITEMS TO BE NOTED

Chairman Entringer indicated that on September 28, 2012, he approved, as Commissioner, an application by BlackRidgeBANK, Fargo, to establish a facility at 855 26th Ave E, West Fargo.

BANK BUDGET UPDATE

Chairman Entringer reviewed the September 30, 2012, Organizational Status Report by Summary Account and Source, which includes the assessment fees for the second year of the biennium.

LEGISLATION

Chairman Entringer explained a requirement of the CSBS Accreditation Program is that the Department update its legislation; however, if it is determined

the statute needs to be recodified the best practice is to recodify within three years of the decision of the need to recodify. Chairman Entringer indicated that he and Assistant Commissioner Webb met with representatives of the North Dakota Bankers Association this spring to discuss the possibility of recodifying, and the consensus was that recodification was not necessary. Chairman Entringer stated the Department goes through reaccreditation in 2013; therefore, he discussed this with the CSBS individual in charge of the accreditation program. Chairman Entringer indicated he was informed if the Department's legal counsel can attest that the entire statute is reviewed and updates are made where necessary on an ongoing basis, the requirement will be met.

Chairman Entringer indicated all relevant Chapters of the North Dakota Century Code were reviewed and a proposed Bill has been drafted, which consists of housekeeping issues mainly, as well as a few changes that will affect the state-chartered banks. Chairman Entringer indicated he will provide the Board with a copy of the proposed Bill for their information.

MEETING DATES FOR 2013

Chairman Entringer indicated the proposed meeting dates for 2013 are the second Thursday of every other month.

Member Quale pointed out the proposed January 13 date is not correct, and should be January 10.

It was moved by Member Quale, seconded by Member Beall, and unanimously carried to approve the following Board meeting dates for 2013: January 10, March 14, May 9, July 11, September 12, and November 14.

SPECIAL MEETING

Chairman Entringer indicated the Department is in receipt of a change of control application, and the applicant has requested the Board consider the application before yearend 2012; therefore, Chairman Entringer indicated a special conference call meeting will be scheduled for late November.

The Board went into closed session at 9:31 a.m. to review the Supervisory Reports of Examination pursuant to North Dakota Century Code 6-01-07.1.

Robert J. Entringer, Chairman

Aaron K. Webb, Secretary